



HOUSE OF REPRESENTATIVES

HB 2539

sex offender registration; petition; termination

Prime Sponsor: Representative Bowers, LD 25

DPA Committee on Judiciary

DPA Caucus and COW

X As Transmitted to the Governor

OVERVIEW

HB 2539 allows a sex offender who was convicted of sexual conduct with a minor to be relieved of the duty to register if specific conditions are met.

PROVISIONS

1. Allows a sex offender who was convicted of sexual conduct with a minor ([A.R.S. § 13-1405](#)) to petition the court to terminate his or her duty to register. Applies if the offender has completed a term of probation.
2. Requires the defendant to include in the petition a statement that all of the following apply:
 - a. The defendant was under 22 years old at the time of the offense;
 - b. The victim was 15, 16 or 17 years of age at the time of the offense;
 - c. The conduct was consensual;
 - d. The defendant did not violate any sex offender terms of probation;
 - e. The defendant has not committed another felony offense, sexual offense or offense involving the sexual exploitation of children;
 - f. The court has not determined that there is probable cause to believe that the defendant is a sexually violent person;
 - g. There is no sexually violent person proceeding pending;
 - h. There was not more than one victim; and
 - i. The defendant was not sentenced to prison for the offense.
3. Requires the court to set a hearing once the petition is received.
 - a. Court must provide sufficient notice to the state for notifying the victim.
 - b. The state has the burden of establishing by preponderance of the evidence that a factor outlined above exists.
 - c. Any party may introduce reliable and relevant evidence (including hearsay).
 - d. All parties must be given the opportunity to be heard (including the victim).
4. Requires the court to deny the petition if the court finds that any factor outlined above applies.
5. Allows the court to deny the petition if denial is:
 - a. In the best interests of justice, or
 - b. Tends to ensure the safety of the public.

CURRENT LAW

A.R.S. Title 13, Ch. 38, Article 3 governs the registration and monitoring of sex offenders. [A.R.S. § 13-3821](#) outlines which offenses require a person to register as a sex offender and includes the crime of sexual conduct with a minor ([A.R.S. § 13-1405](#)). Sex offender registration is a lifetime duty in Arizona, except in the following situations:

- If the offender was adjudicated delinquent for the offense requiring registration, the duty to register ends when the offender reaches age 25 (A.R.S. § 13-3821(D)).
- If the offender is on probation, under 22 years of age and was convicted of an offense that occurred before the offender turned 18, the offender can ask the court to consider ending the offender's duty to register. ([A.R.S. § 13-923](#))

Sexual conduct with a minor pursuant to ([A.R.S. § 13-1405](#)) is a Class 6 felony if the victim is 15, 16 or 17 years of age and the offender was not in a *position of trust* (defined in [A.R.S. § 13-1401](#)). It is a defense to prosecution if the victim is 15, 16 or 17 years of age, the conduct was consensual and the defendant is:

- Under 19 years of age or attending high school, and
- No more than 2 years older than the victim.

ADDITIONAL INFORMATION

According to the Arizona Department of Public Safety, there are approximately 15,438 registered sex offenders in Arizona.